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REMARKS

Claims 54-66 are pending in this application.

Rejections Under 35 U.S.C. §102:

According to the Office Action, claims 54-56 and 65-66 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,116,198 to Roos ("hereafter the "Roos Patent"). Applicant respectfully disagrees.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 *citing* Verdegaaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

All of the pending claims require the electrode to have a hemispherical shape or surface. Claim 54 requires an "electrode terminal having an active electrode surface at or near the distal end of the shaft, the active electrode surface comprising a hemispherical geometry" and claim 65 requires a "hemispherical-shaped electrode terminal". Thus, all pending claims require a hemispherical shape or surface.

The Roos Patent does not disclose or suggest this claim limitation. The Roos Patent discloses a U-shaped wire or sheet. The Roos electrode shape does not have the same curvature as a hemisphere. The Roos electrode shape is more two dimensional or planar. Although Figures 5-6 of Roos show curved sheets, these shapes are still not identical to a hemisphere shape. Accordingly, the Roos Patent lacks an element in the pending claims.

Based on the foregoing Applicant respectfully requests reconsideration and withdrawal of the rejections of claims.

Rejections Under 35 U.S.C. §103:

According to the Office Action, claims 57-58 and 60-64 are rejected under 35 U.S.C. §103(a) as being unpatentable over Herczog et al., (GB 2037167). Applicant respectfully disagrees.

As discussed above the Roos Patent fails to disclose all claim limitations. In particular, the Roos Patent does not disclose the hemispherical shaped electrode.

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Herczog likewise fails to disclose this claim limitation. Herczog discloses a blade or two dimensional cutting device.

Consequently, no combination of the cited references teach or suggest all claim limitations, a well known requirement for a proper *prima facie* case of obviousness under Section 103. MPEP § 2142.

Based on the foregoing, Applicant requests reconsideration and withdrawal of the rejections of claims based on obviousness.

Double Patenting:

According to the Office Action, claims 54-66 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-59 of U.S. Patent No. 5,697,909.

Applicant shall consider filing a terminal disclaimer upon indication that the claims are otherwise in condition of allowance.

If the Examiner believes a telephone conference would expedite prosecution of this application, a telephone call to the undersigned attorney at below listed number will be appreciated.

Respectfully submitted,



Richard R. Batt
Reg. No. 43,485

ArthroCare Corporation
680 Vaqueros Ave.
Sunnyvale, CA 94085-3523
(408) 736-0224